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**SLOVER & LOFTUS**

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N.W.  
WASHINGTON, D.C. 20036-3003

WILLIAM L SLOVER  
C MICHAEL LOFTUS  
JOHN H LE SEUR  
KELVIN J DOWD  
ROBERT D ROSENBERG  
CHRISTOPHER A MILLS  
FRANK J PERCOLIZZI  
ANDREW B KOIRSAR III  
PETER A PFOHL  
DANIEL M JAFFE  
STEPHANIE P LYONS  
JOSHUA M HOFFMAN

OF COUNSEL  
DONALD G AVERY

TELEPHONE  
(202) 347-7170

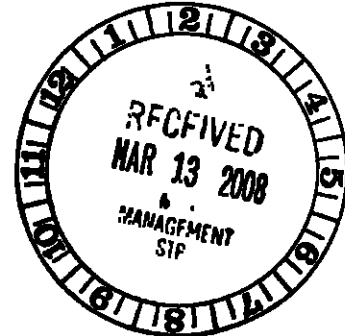
FAX  
(202) 347-3619

WRITER'S E-MAIL  
kjd@sloverandloftus.com

March 13, 2008

**VIA HAND DELIVERY**

The Honorable Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street, SW  
Washington, D.C. 20423-0001



Re: STB Finance Docket No. 35087, *Canadian National Railway Company, et al. – Control – EJ&E West Company*

Dear Ms. Quinlan:

Enclosed for filing in the above-referenced proceeding, please find an original and 10 copies of the Response of Wisconsin Public Service Corporation to Opening Comments (designated as WPS-5).

We have included an extra copy of the filing. Please indicate receipt by time-stamping this copy and returning it with our messenger.

Sincerely,

Kelvin J. Dowd

Enclosures

ENTERED  
Office of Proceedings

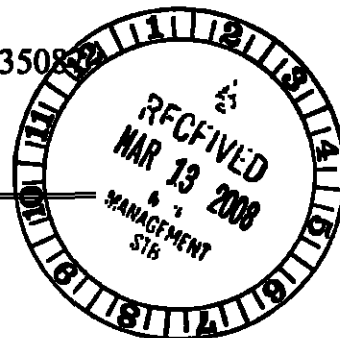
MAR 13 2008

Part of  
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**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

CANADIAN NATIONAL RAILWAY  
COMPANY, ET AL. – CONTROL –  
ELGIN, JOLIET & EASTERN WEST  
COMPANY

Finance Docket No. 3508



**RESPONSE OF  
WISCONSIN PUBLIC SERVICE CORPORATION  
TO OPENING COMMENTS**

**ENTERED  
Office of Proceedings**

**MAR 13 2008**

**Part of  
Public Record**

**WISCONSIN PUBLIC SERVICE  
CORPORATION  
700 North Adams Street  
Green Bay, Wisconsin 54301**

**OF COUNSEL:  
Slover & Loftus  
1224 Seventeenth St., NW  
Washington, DC 20036**

**By: Kelvin J. Dowd  
Peter A. Pfohl  
Slover & Loftus  
1224 Seventeenth Street, NW  
Washington, DC 20036**

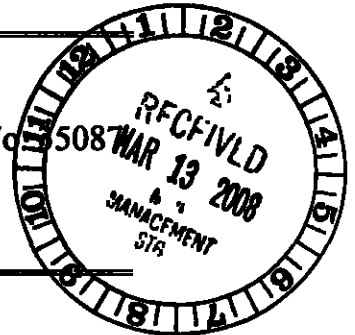
**Dated: March 13, 2008**

**Attorneys for Wisconsin Public Service Corporation**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

CANADIAN NATIONAL RAILWAY  
COMPANY, ET AL. – CONTROL –  
ELGIN, JOLIET & EASTERN WEST  
COMPANY

Finance Docket No. 5087



**RESPONSE OF  
WISCONSIN PUBLIC SERVICE CORPORATION  
TO OPENING COMMENTS**

Pursuant to the Board's Decision No. 2, Wisconsin Public Service Corporation ("WPSC") hereby submits its response to the comments submitted by other parties to this proceeding that are pertinent to WPSC's Comments and Requests for Conditions filed on January 28, 2008 ("WPSC Comments").

**INTRODUCTION AND SUMMARY**

In WPSC's Comments, WPSC established that the quality of its essential railroad service would face the threat of significant deterioration should the Application by Canadian National Railway Company and its rail affiliates ("CN") for authority to control Elgin, Joliet & Eastern West Company, a wholly-owned non-carrier subsidiary of Elgin, Joliet & Eastern Railway Company ("EJ&E") (collectively "Applicants"), be approved without condition. Among other things, WPSC demonstrated that: (i) EJ&E already is having capacity and service problems on its single-track Western Subdivision

line over which WPSC's trains operate at existing traffic levels (as well as on CN's lines in Wisconsin that serve WPSC); (ii) there will be a dramatic increase in traffic over the involved lines post-transaction, and Applicants' post-transaction traffic volume estimates do not adequately include or assess other expected traffic volumes; (iii) post-transaction, the Western Subdivision will remain single-track, and there is a lack of sufficient infrastructure and/or other operating enhancements planned by the Applicants to accommodate the planned huge increases in traffic volumes; and (iv) other significant operating impediments (e.g., several at-grade conflicting interlockings on the Western Subdivision, a lack of train siding/storage capacity, etc.) exist that are not adequately addressed in the Application and that will further inhibit the ability of WPSC to experience the service and efficiency improvements promised in the Application.

WPSC has carefully reviewed the comments and related submissions filed by other parties to this proceeding in an effort to validate (or alleviate) its concerns. As explained herein, several of these filings shed some important additional factual light on the proposed transaction's impacts on WPSC's coal transportation service. Indeed, pertinent filings reinforce WPSC's concerns and provide further evidence that there will be a diminution in railroad service quality absent the imposition of WPSC's suggested remedial conditions.

## **DISCUSSION**

### **A. Response to Comments on the Planned Dramatic Growth in Traffic Volumes**

As explained in WPSC's Comments, the Applicants anticipate substantial traffic growth on EJ&E's Western Subdivision where WPSC's trains operate, representing up to a 555% change in freight trains/day (Munger-to-West Chicago) and up to a 1,185% increase in gross tons/day (also Munger-to-West Chicago). WPSC Comments at 11. This change in traffic is largely attributable to the rerouting of existing CN traffic over these lines, rather than anticipated new traffic volume gains on the CN system. Id. at 10-11, 14. In its initial Comments, WPSC emphasized, among other things, that the Applicants failed to factor into their Operating Plan substantial volumes of new traffic on the Western Subdivision from other freight railroads (via trackage rights arrangements), as well as considerable non-freight traffic anticipated through the completion of Metra's Suburban Access Transit Route ("STAR Line"). Id. at 14-16.

Metra has now confirmed that the new STAR Line project, which involves the potential future movement of thousands of daily passenger trips, "is well on its way to becoming a reality." Opposition Statement and Request for Conditions of Metra (dated Jan. 28, 2008) at 3 ("Metra Comments"). Metra is finalizing an Alternative Analysis study for the corridor, which it "anticipates completing" this year, "and securing federal approval to enter preliminary engineering, the next step in bringing the STAR Line to fruition." Id. at 8. The City of Naperville also notes that the STAR Line project is close to reality, land use and zoning changes have been revised to reflect the implementation of

the project, and “[n]ot only has the City of Naperville invested over eight million dollars, but many businesses and residents have made similar investments based upon the future STAR Line.” Comments of the City of Naperville, Illinois to the Draft Scope of the Environmental Impact Statement (dated Feb. 15, 2008) at 2.<sup>1</sup>

Metra continues to favor the utilization of portions of the EJ&E’s Western Subdivision and trackage rights over the EJ&E’s line for its new STAR Line operations. Metra Comments at 8. In this respect, Metra has requested that the Board impose as a specific condition the granting of trackage rights to Metra “between Milepost Nos. 7.5 and 42.5 on EJ&E’s Western Subdivision,” and that CN be compelled to “agree to work cooperatively to consider future grants of trackage rights as Metra seeks to develop the Star Line East.” *Id.* at 7. Again, none of this substantial new commuter traffic is accounted for in the Application.

Besides the STAR Line, other comments have raised serious concerns about the influx of new rail traffic on the EJ&E lines and on CN’s Wisconsin lines with the opening of the Port of Prince Rupert Container Terminal. See Comments on the Draft Scope of Environmental Impact Statement (EIS) by Wisconsin Department of Transportation (dated Feb. 15, 2008) at 1-3 (“Wisconsin Comments”); Comments of The Village of Barrington, Illinois to the Draft Scope of the Environmental Impact Statement

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<sup>1</sup> WPSC addresses herein certain pertinent comments that have been made to the Board’s Section of Environmental Analysis by interested parties, as these comments are directly related to WPSC’s Comments on transportation merits issues pertaining to the impacts of the transaction on the fluidity and efficiency of WPSC’s coal train operations.

(dated Feb. 15, 2008) at 4-5 (“Barrington Comments”); Comments and Request for Conditions of United Transportation Union – General Committee of Adjustment GO-386 (dated Jan. 28, 2008) at 3-4 (“UTU GO-386 Comments”). A massive expansion of CN-originated intermodal container volumes by rail is anticipated from this new terminal, and the Port is specifically “targeting” its new movements at Chicago and its transportation network connections. See UTU GO-386 Comments at Attachment 1 (Oct. 1, 2007 Traffic World article). CN exclusively serves the Port, apparently no truck connections currently exist at the Port, and “with no local economy receiving or dispatching containers, it all will be rail intermodal traffic” via the CN. Id. at Attachment 2 (Oct. 22, 2007 Journal of Commerce article).

Not only will this new traffic create added pressure on the EJ&E lines, the State of Wisconsin fears that this new through traffic will create considerable congestion problems within the State, and over a substantial portion of the same congested rail lines on which WPSC’s traffic is moving:

*According to CN officials, the projected volume of TEUs to be moved by 2010, only two years from now, translates into more than 6 loaded 100-car double stack trains with 400 TEUs each. Returning the TEUs to their origin will require an equivalent movement of more than 6 trains per day. This will mean more than an additional 12 trains per day moving on the CN.*

A significant portion of this traffic can be expected to move over the CN’s lines from the Port of Prince Rupert to Superior, Wisconsin before moving through Wisconsin to the Chicago area for movement on the lines involved in this proposed transaction, and points south and east. This additional traffic will cut through the heart of Wisconsin and

represent a 50% increase of the number of trains on the already congested lines of the CN.

Wisconsin Comments at 2 (emphasis added). See also Comments of Wisconsin Department of Agriculture, Trade and Consumer Protection (dated Jan. 25, 2008) at 4-5 (discussing the potential adverse service impacts in Wisconsin of expanded rail traffic associated with the new Port terminal, especially in the context of existing CN traffic congestion and traffic predictability problems); Barrington Comments at 5 (by the Year 2011, Port of Prince Rupert “container capacity will quadruple in part from CN investment, yet none of the effects of this dramatic increase is captured in CN’s Application”).<sup>2</sup>

**B. Response to Comments on EJ&E System Operating Constraints**

No party directly disputes the fact that, under the Applicants’ Operating Plan, the EJ&E’s Western Subdivision will experience dramatic traffic volume growth on a single-track line that threatens a further deterioration in the quality and dependability of the service that WPSC receives. See WPSC Comments at 10-20. However, the comments filed by Union Pacific Railroad (“UP”), which appear to be primarily directed at local communities that might be impacted by the transaction, summarily dismiss all concerns that the level of traffic increases reflected in the Application will have any service performance problems for any EJ&E customer (existing or new). See

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<sup>2</sup> See also id. at 4 n.4 (referencing U.S. Department of Transportation and Association of American Railroads’ forecasts and studies reflecting significant freight traffic demand increases that apparently are not reflected anywhere in the Applicants’ operating plan).



Environmental Comments of Union Pacific Railroad Company (dated Feb. 15, 2008) at 6-8 (“UP Comments”). Specifically, UP contends that there is no reason to be concerned because other regional carriers today allegedly handle even higher traffic levels without any operational problems:

CN intends to operate roughly 20-45 trains a day over EJ&E (the amount varies by segment . . .). It is this level of traffic which, according to some parties, will cause major disruptions all along the EJ&E corridor.

How does this compare to other rail lines in the area served by EJ&E? UP’s Chicago-Omaha main line (which crosses EJ&E at grade at West Chicago) travels through the west side of Chicago and Chicago’s western suburbs and handles over 100 trains per day. . . .

A few miles south of the UP line is a major BNSF main line, which crosses under EJ&E at Eola. . . . The BNSF line actually handles more rail traffic than the UP line – over 130 trains a day.

Other rail lines in the Chicago area also handle heavy amounts of rail traffic. For example, the CP-NIRC (Metra) line running from Chicago northwest to Elgin handles 86 trains per day; the CP-NIRC (Metra) line from Chicago north to Roundout handles over 82 trains per day; the UP line running northwest from Chicago to Harvard handles over 66 trains per day through Barrington; the UP line running north from Chicago to Waukegan and Kenosha handles 55 trains per day.

Based on the above observations, UP contends that “in reviewing the EJ&E transaction, the Board should compare and contrast it to existing rail operations though the Chicago suburbs,” and that if the Board does, it will find that “the number of trains CN intends to route on EJ&E is low compared to most other main lines serving the area.” UP’s traffic

volume contention arguments are unsubstantiated and potentially misleading.

UP completely ignores the obvious and essential fact that there is a reason why routes such as UP's main line to Omaha, NE may be able to accommodate relatively higher daily traffic volumes compared to those of the EJ&E: the lines are higher density (double or triple tracked), equipped with Centralized Traffic Control signals, and/or otherwise do not carry the longer and heavier trains that are contemplated by the Applicants. For example, unlike EJ&E's Western Subdivision, which is single-tracked, UP's "West Line" extending from Chicago to Omaha (and which crosses EJ&E at-grade at West Chicago, IL) is triple tracked through Chicago. Similarly, the Spaulding, IL interlocking freight/passenger lines are primarily double and triple tracked. See Metra Comments in Opposition to Proposed Transaction and Request for Conditions, STB Finance Docket No. 35081, Canadian Pacific Ry. Co. – Control – Dakota, Minnesota & Eastern R.R. Corp., (dated March 4, 2008) at 3 ("Metra's CP Comments").

Also, contrary to UP's assertions, even with double and triple tracks these so-called "comparison" lines do not easily accommodate existing traffic volume levels. Substantial capital dollars are being spent on these lines to alleviate existing congestion and accommodate anticipated traffic growth. For example, approximately \$384 Million is being spent on capacity upgrades on 36 miles of UP's West Line alone (see <http://metraconnects.metrarail.com/pdf/upwest.pdf>). These dollars dwarf the \$100 million the Applicants plan on spending on the entire EJ&E system – again, none of which is being spent on double tracking EJ&E's Western Subdivision lines over which

WPSC's trains operate.

Metra likewise does not agree with UP's rosy operational performance assessments as pertains to these EJ&E interlocking lines. For example, Metra asserts: "Union Pacific's freight traffic that crosses EJ&E at West Chicago is extremely heavy. Thus, given the freight traffic on the UP-West Line, the congestion at the West Chicago interlocking has the potential to become a rail traffic nightmare." Metra Comments at 7. As for the other "comparison" commuter lines referenced, UP fails to mention that because of the faster and shorter commuter trains operating over these crossings (as opposed to the substantially longer, heavier, and slower freight trains that are planned by the Applicants on the EJ&E's Western Subdivision), far fewer operating challenges are raised.

As shown in WPSC's Comments, EJ&E has three significant at-grade rail crossings with freight and commuter lines over the section of track where WPSC's trains operate: Barrington, IL (UP/Metra), Spaulding, IL (CP/ICE/Metra), and West Chicago, IL (UP/Metra). WPSC estimated that Metra operates over 50 commuter trains per day over each of these interlockings, creating considerable EJ&E operating performance concerns. These estimates have turned out to be very conservative. As indicated above, UP states that over 100 total daily freight and commuter passenger trains operate over the West Chicago interlocking at grade today. Metra's comments confirm that of this traffic, 52 commuter trains cross the EJ&E at West Chicago daily. Soon, 15 more trains per day will be added to the UP's line for a total of 67 commuter trains each weekday (in addition

to the UP freight traffic) when Metra completes its current capital initiatives on the line. See Metra Comments at 5.

At Spaulding, Metra confirms that 79 Metra commuter trains cross the EJ&E daily, and that CP and IC&E operate another 17 trains over the interlocking on a daily basis. Metra CP Comments at 3. Finally, Metra confirms that 56 Metra commuter trains cross the EJ&E at grade at Barrington daily, and that this traffic will increase to 66 commuter trains each weekday when Metra completes its current capital initiatives on the line. Id.

Metra highlights the significant logistical and operational issues that relate to the interplay of Metra's operations with those of the area's freight railroads (including the EJ&E), stressing that it takes "intense coordination between commuter and freight rail traffic to efficiently operate the system" even at existing modest EJ&E traffic levels, and that adding the freight traffic levels projected by the Applicants "could severely threaten . . . efficient commuter rail operations crossing" the EJ&E's lines. Id. at 6. As a result, Metra is requesting that its traffic continue to be given priority over conflicting EJ&E freight traffic post-transaction. Id.

These additional facts further confirm that these at grade railroad interlockings create significant EJ&E capacity and operating concerns that are not adequately addressed in the Application, especially in light of the Applicants' planned shifts in traffic to the Western Subdivision and the planned significant growth in rail traffic over interlocking lines.


## **CONCLUSION**

For the reasons set forth herein, and in WPSC's initial Comments, WPSC respectfully submits that the ameliorative conditions it has requested are necessary and in the public interest, and should be imposed should the Board otherwise decide to approve the Application.

Respectfully submitted,

WISCONSIN PUBLIC SERVICE  
CORPORATION  
700 North Adams Street  
Green Bay, Wisconsin 54301

OF COUNSEL:  
Slover & Loftus  
1224 Seventeenth St., NW  
Washington, DC 20036

By: Kelvin J. Dowd   
Peter A. Pfohl  
Slover & Loftus  
1224 Seventeenth Street, NW  
Washington, DC 20036

Dated: March 13, 2008

Attorneys for Wisconsin Public Service Corporation

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing were served this 13th day of March, 2008, by first-class mail, postage pre-paid, upon all Parties of Record in this Proceeding.

  
\_\_\_\_\_  
Peter A. Pfohl